

REMARKS

Reconsideration of this application based on the foregoing Amendments and the following Remarks is respectfully requested.

The applicants call to the Examiner's attention that claims 1-5 are each independent apparatus claims. Claim 6 depends from claim 1. Claims 7 and 11 each depend from claim 2. Claims 8 and 12 each depend from claim 3. Claims 9 and 13 each depend from claim 4. Claims 10 and 14 each depend from claim 5.

Claims 15-19 are each independent method claims and are generally analogous to claims 1-5 respectively.

Information Disclosure Statement (IDS)

The Examiner alleges that the IDS filed on December 17, 2001 fails to comply with 37 CFR 1.98(a)(1) which requires a list of all patents, publications, or other information submitted for consideration by the Office. The Examiner indicates that it has been placed in the file but the information referred to therein has not been considered.

In response, the applicants respectfully disagree with the Examiner's allegation. In the IDS, the applicants provided both a list of patents within the body of the IDS and also the applicants provided a Form PTO A820 (also Form PTO-1449) which listed the patent references.

The applicants are hereby enclosing a copy of page 2 of 4 of the Utility Patent Application Transmittal (Large Entity), Express Mail Label No. EV 052766424 US, Docket No. 15168, which shows that an Information Disclosure Statement/ PTO-1449 and Copies of IDS Citations were submitted with the application in that the boxes were marked with an X.

To expedite prosecution of the application, the applicants are also hereby enclosing a copy of the Form PTO-1449, as filed. Therefore, the applicants respectfully request that the Examiner consider the IDS to have been properly filed at the time of application and to consider the IDS on the merits thereof without payment of any fees.

Drawing Objections

The Examiner objects to the drawings by indicating that the drawings must show every feature of the invention specified in the claims, and any structural detail that is essential for a proper understanding of the disclosed invention. The Examiner alleges that the limitation “a predetermined pattern having a plurality of opening” as recited in claims 1, 2, 4, 5, 15, 16, 18 and 19 is not shown on the drawings. Therefore, according to the Examiner, the feature must be shown or the feature canceled from the claims. No new matter should be added.

In response, the applicants maintain that FIG. 4 shows a plurality of openings 14 (formed) in a predetermined pattern in transparent electrode 11. Page 13, lines 6-7, discloses the following:

“As shown in Fig. 4, a plurality of opening 14 is made in the transparent electrode 11.”

With reference to FIG. 9B, page 16, lines 2-7, discloses the following:

“By this means, the transparent electrode 11 having the openings 14 is formed (Step S72). When ITO is used for the anode material, it is preferable that its sheet resistance is less than approximately 20/□, and its thickness is approximately 100 nm. Fig. 9B shows a state where the

transparent electrode 11 is formed on the second insulating layer 29 with a predetermined pattern.”

As a result, the applicants maintain that the drawings do not require any corrections.

Consequently, the applicants respectfully request that the Examiner withdraw the objections to the drawings.

In addition, the applicants respectfully request that the Examiner consider the response to the objection to the drawings together with the applicants’ response to the rejections of claims 1-19 under 35 U.S.C. 112, second paragraph, which is discussed below.

Claim Objections: Claims 2-5

The Examiner has objected to claims 2-5 because of informalities: the term in line 1 of claims 2 and 3 “wherein” is being interpreted by the Examiner as “comprising”. The Examiner is also objecting to the claim structure as not conforming to standard US practice. The Examiner asserts that the claims do not clearly contain a preamble, a transitional word or a main body.

The Examiner alleges that the claims are difficult to interpret because they do not contain a preamble, a transitional word or a main body.

In response, the applicants are uncertain as to the exact intent of the Examiner’s comments regarding claims 4-5 other than that the Examiner is stating that he considers the preamble of claims 4-5 to begin with “A light emitting device, ..” and to end with “..are stacked above the TFT;”.

To overcome the objection, in claims 1-5, the applicants have changed the word “wherein” to --comprising--. No new matter has been added. Consequently, the applicants respectfully request that the Examiner withdraw the objections to claims 2-5.

35 U.S.C. 112, Second Paragraph Rejections: Claims 1-19

The Examiner has rejected claims 1-19 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention.

The Examiner asserts that the claims are narrative and indefinite, failing to conform to US practice. In particular, the Examiner asserts that the limitation of claim 4, lines 10-11, of “a predetermined pattern having a plurality of opening is formed to the insulating base material or at least one material placed above the insulating base material and below the luminous material layer;” is unclear. The Examiner interprets this limitation as openings, formed below the luminous material, which advance in the direction of the insulating base.

In conjunction with the discussion above concerning the objections to the drawings, the applicants have changed this limitation in claim 4 to recite -- ~~a predetermined pattern having a plurality of openings is formed~~ in a predetermined pattern ~~[[to]]~~ on one of the insulating base material ~~[[or]]~~ and at least one material placed above the insulating base material and below the luminous material layer--.

The applicants have made similar changes to claims 1, 2, 3 and 5 and also to claims 15-16 and 18-19. The applicants maintain that no changes are necessary to claim 17, except to change “in plane view” to --in plan view--.

These amendments are supported by FIG. 4 and FIG. 9B and the corresponding disclosure in the specification discussed above.

The Examiner also asserts that since claim 5 recites the limitation “an insulating layer” in line 3, the claim is indefinite because it is not clear if the claim refers to an additional insulating material or to the same insulating base material as claimed in line 2 of the claim. The Examiner has interpreted these limitations to be different elements.

In response, the applicants call to the Examiner’s attention that in FIGS. 3 and 8F, first insulating layer 27 is formed on gate electrode 26 and on gate insulating layer 25. Therefore, the Examiner’s interpretation is correct that an insulating layer is separate from the insulating base material.

The applicants have made amendments to claims 1-5 to overcome the rejections under 35 U.S.C. 112, second paragraph. Specifically, the applicants have relocated the limitation in claim 1 of --and fabricated above the TFT-- to the beginning of the respective claim. The applicants have relocated the limitation in claims 2-3 of -- stacked above an insulating base material-- to the beginning of the respective claim. Similarly, the applicants have relocated the limitation in claims 4-5 of -- stacked above the TFT-- to the beginning of the respective claim.

With respect to the recitation in claims 2 and 3 of “the other electrode layer”, the applicants have amended claim 2 to recite --either the first electrode layer or the second electrode layer being made of a transparent material; and a plurality of openings developed in

a predetermined pattern ~~[[to]]~~ on either the first electrode layer or second electrode layer made of the transparent material, and concavities and convexities formed to the luminous material layer and to the other electrode layer-- ~~owing to the plurality of openings~~. Claim 3 has been similarly amended.

The applicants have also amended claims 1-5 and 11-14 to eliminate all product by process limitations.

In support of the amendments to claims 1-5 and 11-16 and 18-19, the applicant calls to the Examiner's attention that FIGS. 3, 12, 13 and 14 each show configurations in which the first electrode layer 11, 11b, 11c, or 11d is a transparent electrode and the second electrode layer 13, 13b, 13c or 13d is a reflecting electrode.

On the other hand, FIG. 15 shows a configuration in which the first electrode layer 13e is a reflecting electrode and the second electrode layer 11e is a transparent electrode.

In either case, FIG. 4. discloses a plurality of openings 14 in a predetermined pattern on the electrode layer 11, 11b, 11c or 11d made of the transparent material.

No new matter has been added by the amendments to claims 1-5 or 15-16 and 18-19. In that claims 6-14 depend from amended claims 1-5, as appropriate, the applicants respectfully request the Examiner to withdraw the rejections of claims 1-19 under 35 U.S.C. 112, second paragraph.

Before addressing the rejections over the prior art, the applicant's call to the Examiner's attention that claim 3 has been amended to recite in part --either the first electrode layer or the second electrode layer made of the transparent material in plan view has a comb shape partly having circular regions, ...--

recites further --concavities and convexitieson the-luminous material layer and on the other electrode layer--. These limitations are derived from FIG. 4 of the present application.

The applicants maintain that there is no disclosure of a plurality of openings nor of a predetermined pattern to such openings by Yamazaki.

Therefore, Yamazaki does not disclose, teach or suggest the limitations of claims 1, 2, 4 and 5 of a plurality of openings in a predetermined pattern. As a result, claims 1-2, 4-7, and 9-10 patentably distinguish over Yamazaki.

With respect to claim 3, the Examiner asserts that the Expanded Portion 204 of FIG. 3 of Yamazaki appears to disclose a luminous material layer, i.e., EL layer 46, a first electrode layer, i.e., transparent anode 47, and the luminous material layer and the second electrode layer, i.e., cathode 44, stacked on the electrode layer made of transparent material formed in the shape of concavities and convexities in side view.

In response, the applicants maintain that claim 3 recites the limitations of at least one of the first electrode layer and the second electrode layer made of the transparent material has a comb shape *partly having circular regions* in plan view, and the and the luminous material layer and the other electrode layer stacked on the electrode layer made of the transparent material are in the shape of concavities and convexities in side view.

Consequently, Yamazaki does not disclose, teach or suggest the limitations of claims 3 and 8. As a result, claims 3 and 8 patentably distinguish over Yamazaki. Therefore, the applicant respectfully requests the Examiner to withdraw the rejections of claims 1-10.

35 U.S.C. 103(a) Rejections: Claims 11-19

The Examiner has rejected claims 11-14 under 35 U.S.C. 103(a) allegedly as being unpatentable over Yamizaki (in view of the Applicant's Admitted Prior Art (AAPA) of FIG. 2).

In response, the applicants call to the Examiner's attention that claim 11 depends from claim 2; claim 12 depends from claim 3; claim 13 depends from claim 4; and claim 14 depends from claim 5. In view of the foregoing arguments with respect to claims 2-5, the applicants maintain that the AAPA does not overcome the deficiencies of Yamizaki with respect to claims 11-14.

The Examiner has rejected claims 15-19 under 35 U.S.C. 103(a) allegedly as being unpatentable over Yamizaki.

Since method claims 15-19 are analogous to apparatus claims 1-5, respectively, the Examiner is asserting that, although Yamizaki is silent as to a method of manufacturing such a device, it would have been obvious to one of ordinary skill in the art at the time the invention was made to construct the light emitting device of Yamizaki with the method of claims 15-19, since the method steps are obvious in light of the resultant structure.

In response, the applicants call to the Examiner's attention that that claims 15-19 each generally recite the limitations of --a plurality of openings in a predetermined pattern to at least one of the insulating base material and at least one material placed above the insulating base material and below the luminous material layer-- or -- concavities and convexities are formed to the luminous material layer and the other electrode layer owing to the plurality of openings-- or -- the electrode layer made of the transparent material has a comb shape in plan view--

In view of the foregoing arguments presented in favor of claims 1-5 with respect to Yamizaki, the applicants maintain that claims 15-19 also patentably distinguish over Yamizaki. Consequently, the applicants respectfully request the Examiner to withdraw the rejections of claims 11-19.

Reconsideration of this application based on the foregoing Amendment and Remarks is respectfully requested. The foregoing Amendment and Remarks establish the patentable nature of all of the claims in the application, i.e., claims 1-19. No new matter has been added. Wherefore, early and favorable reconsideration and issuance of a Notice of Allowance are respectfully requested.

Respectfully submitted,



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Enclosures IDS with PTO 1449 filed December 17, 2001
Page 2 of Transmittal showing IDS filed